

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be reimbursement of \$437.48 for date of service 07/25/01.
- b. The request was received on 03/11/02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60 and Letter Requesting Dispute Resolution dated 04/11/02
 - b. HCFA(s)
 - c. TWCC 62 forms
 - d. Reimbursement data
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. TWCC 60 and Response to a Request for Dispute Resolution dated 05/02/02
 - b. HCFA(s)
 - c. TWCC 62 form
 - d. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 04/18/02. Per Rule 133.307 (g) (4)(5), the carrier representative signed for the copy on 04/19/01. The response from the insurance carrier was received in the Division on 04/02/02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of Medical Dispute is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor:

“The disputed issue is that the Carrier paid a portion of the claims stating no MAR reduced to fair and reasonable. We resubmitted the claims to the Carrier requesting

additional payment. The Carrier made an additional payment however payment in full was not received.”

2. Respondent:

“...First, DME cannot have utility in the absence of illness, injury or disease. At least some of the items listed by the provider would have utility to the normal consumer and are therefore not DME, e.g., “ultra Form Ventilated Mattress Pad” and “Obus Form Sate Cushion. “ Second, the financial information provided is not limited to the relevant region of the state, nor does it show what other provider’s charges are fair and reasonable.”

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 07/25/01.
2. The denial listed on the EOB is “M-NO MAR, REDUCED TO FAIR AND REASONABLE RE-EVALUATION NO ADDITIONAL RECOMMENDED ALLOWANCE.”
3. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT or Revenue CODE	BILLED	PAID	EOB Denial Code(s)	MARS	REFERENCE	RATIONALE:
07/25/01	E1399 (Geanie Massager)	\$250.00	\$140.50	M	DOP	TWCC Sec. 413.011(d)	“CPT codes for which no reimbursement is listed (DOP) shall be reimbursed at the fair and reasonable rate.” The provider’s only evidence of fair and reasonable are EOBs from other insurance carriers. Per MFG GI(III) places the burden on the provider to prove that the amount of reimbursement requested is fair and reasonable. The provider has not submitted any evidence or methodology they used to determine fair and reasonable. In light of recent SOAH decisions, where providers had submitted EOBs for fair and reasonable, SOAH has placed minimal value on EOBs for documenting fair and reasonable. Therefore, additional reimbursement is not recommended.
	E1399 (massager accessory kit)	\$139.00	\$42.00			MFG DME; (X)(C)	
	E1399 (Obus back cushion)	\$190.00	\$76.00			MFG GI; (III)(VI)	
	E1399 (dry pressure pad)	\$120.00	\$73.02				
	E1399 (Obus seat cushion)	\$100.00	\$50.00				
	E1399 (leg spacer)	\$60.00	\$40.00				
Totals		\$859.00	\$421.52				The Requestor is not entitled to reimbursement.

This above Findings and Decision is hereby issued this 2nd day of July, 2002.

Michael Bucklin, LVN
Medical Dispute Resolution Officer
Medical Review Division

MB/mb

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.